

**Valuer General**

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# Valuation of heritage restricted land

Guidance Note

February 2024



# Acknowledgement of Country

The office of the Valuer General and Valuation NSW acknowledges that we stand on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past and present through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally, and economically.

Published by the NSW Valuer General

[valuergeneral.nsw.gov.au](http://valuergeneral.nsw.gov.au)

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Revised: February 2024

ISSN: 2981-9873

Department reference number: VG23/79

## More information

Enquiries relating to this guidance note should be addressed to the office of the Valuer General via email to [valuergeneral@dpie.nsw.gov.au](mailto:valuergeneral@dpie.nsw.gov.au).

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# Introduction

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## 1.1 Purpose

This document is intended to provide guidance to valuers on the methods to use, and factors to consider, when valuing land affected by heritage restrictions for rating and taxing purposes.

This guidance note will ensure that the Valuer General's valuations of heritage restricted land are:

- consistent and accurate
- transparent
- in line with the *Valuation of Land Act 1916* (the Act) and the *Heritage Act 1977*.

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## 1.2 Background

In NSW, the Act establishes the Valuer General as the independent statutory officer responsible for ensuring the integrity of land valuations in NSW.

Valuation NSW carry out functions on behalf of the Valuer General under formal delegations. Some valuation services may also be contracted out to private valuation firms. All valuation services are subject to a rigorous quality assurance process prior to issue to landholders.

### 1.2.1 Rating and taxing relief

To assist in the conservation of items of environmental heritage, both the Heritage Act and the Act have provisions for the owners of properties with heritage restrictions to receive rating and taxing relief.

The valuation assumptions required are similar in both acts. These assumptions allow the restriction on development caused by the existence of the heritage item to be taken into account in the valuation of land used for rating and taxing.

# Recommended Approach

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## 1.3 Scope

### 1.3.1 Heritage restricted land

Use this guidance note to assess the land value of heritage restricted land. Land is considered to be heritage restricted if it is listed on the State Heritage Register (SHR) or identified as a heritage item in a local environmental plan (LEP).

### 1.3.2 Land value

The land value excludes any structures or improvements but includes land improvements. See section 6A of the Act.

### 1.3.3 Properties that are listed on the SHR

If land is identified as an item of conservation on the SHR, the Minister for Heritage can ask the Valuer General for a heritage valuation. A separate heritage valuation must then be made under the *Heritage Act 1977* (the Heritage Act) whenever the land is valued for rating and taxing.

A heritage listing on the SHR may identify the item of heritage as being within a parcel of land or it may describe the item and provide a curtilage. Only value the land that is identified as heritage restricted using the heritage assumptions within the Heritage Act. You must value the rest of the land under the appropriate section of the Act. If you consider the area of land identified in the SHR to be excessive to the need to preserve the heritage item, you should raise this with the Valuer General. It is possible the listing will not restrict the development potential of the entire parcel of land. The Valuer General may approach the Office of Environment and Heritage to query the defined heritage restricted area.

### 1.3.4 Heritage items within a LEP

If land is identified as a heritage item in a LEP, the Valuer General has the discretion to decide if it is reasonable to value the land as heritage restricted under section 14G of the Act.

The land needs to be specifically identified as a heritage item within a LEP.

If the heritage restriction identified in a LEP is considered to apply to only part of a parcel of land, only that part will be valued as heritage restricted. The remainder of the land will be valued on its highest and best use, having regard to, and being sympathetic to the protection of the heritage item.

In the case of properties that are only partly heritage restricted under the LEP, the appropriate combination land value basis should be allocated to identify the relevant sections of the Act considered in making the valuation. For example -

- allocate 6A(1)/14G for properties where the freehold value of the land excluding any structural improvements applied for part of the property with part having regard to heritage restrictions imposed under a planning instrument
- allocated 14G/26A for properties where the land value is the freehold value of the land having regard to heritage restrictions under a planning instrument and apportioned between building parcels

If you are doubtful about the possible impact of development on the heritage item, you should apply the heritage valuation assumptions to the whole of the land.

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## 1.4 Assumptions and considerations

### 1.4.1 Properties listed on the SHR

You must provide two separate valuations for properties listed on the SHR. You must:

- value the land under section 6A of the Act and
- value the land under section 123–125 of the Heritage Act.

The land value under section 6A reflects the highest and best use of the land, taking into account all statutory restrictions on the land. You must consider in the valuation all the requirements under section 6A which includes the requirement to consider if the current use, if allowed, would result in a higher land value.

The valuation made under the Heritage Act is used for rating and taxing purposes.

A detailed list of assumptions you must make when valuing land under section 123–125 of the Heritage Act are listed in the appendix.

### 1.4.2 Heritage items within a LEP

If land is identified as a heritage item in a LEP you only need to provide a single valuation considering section 14G of the Act.

If land is listed on both the SHR and a LEP, the requirements of the Heritage Act take precedence (section 14G(5)).

A detailed list of assumptions for valuing land considering section 14G of the Act are listed in the appendix. These are similar to the assumptions for valuing the land under the Heritage Act.

### **1.4.3 Valuation assumptions – applying to all heritage valuations**

The below assumptions generally apply to all heritage restricted land, although you must refer to the detailed assumptions listed in the relevant section of the Act or the Heritage Act when valuing the land.

In line with section 6A of the Act, you must value heritage restricted land as vacant, while assuming:

- there is a sale of the land
- the buyer and seller are hypothetical
- the title is unencumbered, and the valuation is of the full fee simple in possession
- the land has no improvements other than land improvements.

You must also assume that the valuation reflects a sale of the property as at 1 July of the valuing year (section 14B).

### **1.4.4 Valuation considerations – applying to all heritage valuations**

You must also consider and reflect in the valuation of heritage restricted land these other requirements in section 14G of the Act and section 123 of the Heritage Act:

- the use of the land is restricted to the current purpose and confined to the nature of the existing improvements.
- the hypothetically vacant site has been purchased to construct new improvements
- no additional costs for construction or material to replicate the heritage restricted form are required
- although the hypothetical building is considered to be new, any obsolescence and lack of utility due to the heritage design is to be taken into account
- the “new” heritage building is of the same size and footprint as the current building/buildings that have been notionally removed
- there is development approval to build the existing improvements in place at the valuation date.

## **Purpose for which land is being used**

As noted above when valuing heritage restricted land, you must assume the use of the land is restricted to the current purpose and confined to the nature of the existing improvements.

You must base the heritage valuation on a clear interpretation and conclusion as to the purpose and use of the heritage restricted parcel or that part of the parcel determined to be heritage restricted.

The purpose should be viewed through the actual use. If the property is used as a residential building, then the use and purpose is confined to use as a residential building.

If at the date the valuation is made, planning steps have been taken to develop the site for a higher or more intensive use; these steps must be taken into account.

## **Where the land is vacant**

When land is vacant, section 14G of the Act allows the Valuer General to consider if it is reasonable to apply the assumptions required.

Under the Heritage Act there is no discretion. The land must be valued for the purpose to which it is being used. Therefore, if vacant land is being held to realise some future potential opportunity for development, and there is the potential for approval to be granted at some future time, this must be regarded. The time required to obtain approval will depend on the circumstances but must be considered to be at the far end of expectations.

### **1.4.5 Land that is only partly heritage restricted**

You should value any part of a parcel not considered to be heritage restricted, under section 6A, or other applicable sections of the Act as appropriate. In the case of properties that are only partly heritage restricted under the LEP, the appropriate combination land value basis should be allocated to identify the relevant sections of the Act considered in making the valuation.

### **1.4.6 Heritage conservation areas**

You should not make a heritage valuation for land in heritage conservation areas unless the land has specifically been identified as a heritage item either on the SHR or in a LEP.

Heritage conservation areas are subject to statutory planning restrictions and, as with any other land, are to be valued in accordance with the zoning conditions prevailing at the date the valuation is made. The effect of the restrictions within a conservation area will be reflected in the market by sales of properties within that area.

You should value heritage conservation areas as follows:



- the land is to be valued under section 6A, or other relevant section of the Act, reflecting the planning constraints on developing the site and assuming the existing improvements had not been made
- if the current use of the property differs from planning controls and would, if allowed, result in a higher land value, that land value must be applied.

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## 1.5 Valuation methods

### 1.5.1 Mass valuation process

The Valuer General uses a mass valuation process to value most heritage restricted land. It involves the systematic valuation of groups of properties at a given date using standardised procedures.

Mass valuations must also meet the requirements of the Act. All valuations must be supported by market evidence and quality assured.

The mass valuation method used in NSW is the component method. Valuation methods, such as the direct comparison method and the hypothetical development method, are used to value a sample of individual properties within the component.

### 1.5.2 Direct comparison method

There are two different scenarios where direct comparison can be adopted, described below.

#### **Land can be directly compared to other properties**

Where the heritage restriction reflects a use that occurs in the market, you can use direct comparison to calculate the heritage land value.

#### **Example**

The heritage item to be valued is a small brick residence with two bedrooms on land that would allow development of a large four-bedroom home.

For comparison, sales of sites that are smaller and that would only allow a two-bedroom home to be constructed may be used.

Adjustment may need to be made for the added amenity of the land and design obsolescence (such as small windows and small family rooms).

For an extended example of this approach refer to example 1 in the appendix.

## Land cannot be directly compared to other properties

If the heritage restriction reflects unique improvements or directly comparable market evidence is not available, you can determine the unaffected land value and adjust the value to allow for the heritage restriction.

To assess the unaffected land value, you use the direct comparison method to value the land under section 6A of the Act. You must analyse a broad range of market evidence, including both improved properties and vacant land if available.

To calculate the adjustment to the land value (heritage restriction adjustment or HRA) use rental evidence.

The adjustment is based on the comparison of rental evidence for new modern buildings to that of the subject building in a new condition.

In summary:

$$\text{HRA} = \frac{\text{Rental rate per m}^2 \text{ of heritage building in new condition}}{\text{Rental rate per m}^2 \text{ of new building}}$$

$$\text{Heritage land value} = \text{HRA (above)} \times \text{Land value under Section 6A of the Act}$$

For an extended example of this approach, refer to example 2 in the appendix.

### 1.5.3 The hypothetical development method

Where there are not enough directly comparable sales to value the subject land, you can use the hypothetical development method.

To derive the land value of a heritage site using this method, you must:

1.	Estimate the net rental which could be obtained from a hypothetical building which represents the current use of land.
2.	Capitalise the estimated net rental to arrive at the improved value of the site.
3.	Deduct the estimated cost of developing the site (including holding costs) from the improved value of the site.

When you apply the hypothetical development method you must remember land improvements are included in land value.

Where land improvements on the existing site would be retained for the hypothetical development (reducing the time and cost of the development), this will need to be factored into the calculation.

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## 1.6 Sales analysis

### 1.6.1 Market evidence

All valuations must be supported by market evidence. You should use comparable sales, where possible, to determine the value of the land based on its restricted development potential.

Where directly comparable sales are not available, rental evidence reflecting the nature of the improvements and their use can be used to provide a comparison between a heritage restricted property and sales of properties without such restrictions.

The market evidence required will depend on the circumstances and use of the land. You must select the most appropriate market evidence for the valuation method adopted.

# References

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## Definitions

Term	Meaning
<b>Component method</b>	An indexing system of mass valuation based on the principle of identifying groups of comparable properties then extrapolating an individual valuation decision for a typical property within the group across the range of the component.
<b>Date the valuation is made</b>	The actual date on which the valuer performs the valuation. The physical condition of the land and the manner in which it may be used on the date the valuation is made must be assumed to be the same as at 1 July. See section 14K of the Act.
<b>Direct comparison method</b>	Compares the property under investigation with recent sales of properties which have been sold in the area. The sales that are considered similar to the property under investigation act as a guide to assist in determining the market value of that property. Adjustments are made for the different features of the sales in comparison to the property under investigation.
<b>Fee simple in possession</b>	Absolute title to land, free of any other claims against the title, which one can sell or pass to another by will or inheritance.
<b>Floor space ratio (FSR)</b>	The total building area divided by the site size area. A FSR of 2.0 would indicate that the total floor area of a building is two times the gross area of the site on which it is constructed, as would be found in a multiple-story building.
<b>Heritage conservation area</b>	An area of land identified as a heritage conservation area or a place of Aboriginal heritage significance, including any heritage items situated on or within that area, in an environmental planning instrument.
<b>Heritage restricted area</b>	The area defined by the Office of Environment and Heritage or local government as being land affected by an item of environmental heritage.
<b>Heritage valuation</b>	Refers to a valuation under section 123–125 of the Heritage Act (if the land is listed on the SHR) or a valuation under section 14G of the Act (if a heritage item in an LEP).

Term	Meaning
<b>Highest and best use</b>	Valuation concept that refers to the possible use of a property that would give the highest market value. The use must be lawful, physically possible and financially feasible.
<b>Hypothetical development method</b>	The estimation of the land value by deducting all costs of construction from the value of a hypothetical “new” building.
<b>Improvement</b>	Something that improves the value of the land. This is not defined in the Act and is different from the term ‘land improvement’ (below).
<b>Interim heritage order</b>	Refers to an interim heritage order in force under Part 3 of the Heritage Act.
<b>Land improvement</b>	Land improvement, such as draining, excavating, filling or clearing, as defined in section 4 of the Act and included in the land value.
<b>Land value</b>	Value of the land excluding any structures or improvements but including land improvements. See section 6A of the Act for a full explanation.
<b>Local environmental plan</b>	An environmental planning instrument which applies generally to the whole, or part of, a local government area.
<b>Net lettable area</b>	The area for which a tenant could be charged for occupancy under a lease.
<b>Relevant date</b>	Either the initial valuation date or subsequent to the initial valuation date, the date the valuation is made.
<b>Sale</b>	<p>The transfer of property between parties. To use a sale as market evidence, it must have been:</p> <ul style="list-style-type: none"> <li>• an arm’s length transaction</li> <li>• between a willing buyer and willing seller who both acted knowledgeably, prudently and without compulsion</li> <li>• properly marketed.</li> </ul>
<b>State Heritage Register</b>	The State Heritage Register is established under Part 3A of the Heritage Act for listings of environmental heritage which are of state heritage significance.

Term	Meaning
<b>State heritage significance</b>	In relation to a place, building, work, relic, moveable object or precinct, means significance to the State in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item (section 4A(1), the Heritage Act.
<b>Statutory restrictions</b>	Statutory restrictions on the land may include environmental planning instruments and development control plans, as well as restrictions relating to the clearing of land, water and soil management.
<b>Unencumbered</b>	<p>Unencumbered land is land without any encumbrances.</p> <p>An encumbrance is any right to or interest in land by someone other than the owner, and that prevents the transfer of that land or lowers its value. It might include an easement, restrictive covenant, mortgage, or other restriction.</p>
<b>Valuing year</b>	The year starting 1 July. Valuation reflects the property market at the start of the valuing year.

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## Appendix

### Assumptions – the Heritage Act

When you value land under section 123-125 of the Heritage Act you must assume:

<b>a.</b>	that the land may be used only for the purpose, if any, for which it was used at the relevant date
<b>b.</b>	that all improvements on that land as at the relevant date may be continued and maintained in order that the use of that land, as referred to in (a) may be continued
<b>c.</b>	that all improvements referred to in (b) on that land are new (without any deduction being made because of their actual condition)
<b>d.</b>	that no improvements, other than those referred to in (b), may be made to or on that land
<b>e.</b>	that the cost of construction of improvements on that land has no effect on its land value, with the result that there is to be no reduction in land value because of any difference between the cost of construction of the improvements referred to in paragraph (b) as new improvements and the cost of construction of other improvements used as a basis for comparison in the determination of land value.

When the Minister for Heritage requests a valuation under section 124 of the Heritage Act, the initial valuation date will be either:

- the date on which the heritage listing on the register took effect or
- if an interim heritage order existed immediately prior to that listing, the date on which the interim order took effect.

For subsequent rating and taxing heritage valuations the date of valuation is defined as the date the valuation is made.

## Assumptions – Section 14G of the Act

The assumptions for valuing land under section 14G of the Act are similar to the assumptions for valuing the land under the Heritage Act. These assumptions are:

<b>a.</b>	that land may be used only for the purpose, if any, for which it was used when the value is determined
<b>b.</b>	that all improvements on that land when the value is determined may be continued and maintained in order that the use of that land as referred to in paragraph (a) may be continued
<b>b1</b>	that all improvements referred to in (b) on that land are new (without any deduction being made because of their actual condition
<b>c.</b>	That no improvement, other than those referred to in (b), may be made to or on that land
<b>d.</b>	That the cost of construction of improvements on that land has no effect on its land value, with the result that there is to be no reduction in land value because of any difference between the cost of the construction of the improvements referred to in paragraph (b) as new improvements and the cost of construction of other improvements used as a basis for comparison in the determination of land value.

When you apply these assumptions, you will need to consider the use of the land at the date the valuation is made.

## Valuation – example 1

Valuing a heritage item using direct comparison:

### Example

The heritage item is a small two-bedroom cottage with a gross floor area of 100m<sup>2</sup> built circa 1880s. There is no garage, and the family rooms are not in a modern open plan style. The land area is 600m<sup>2</sup> with a zoning which allows construction of a single residential home.

The highest and best use of the land in this location would typically be a single residential cottage of 300m<sup>2</sup> with four bedrooms, a lock up garage and open plan living rooms. The heritage cottage is therefore restricting the development potential of the land.

### Valuing the land:

Having regard to the nature of the existing improvements and grounds, it is reasonable to determine that the whole parcel is heritage restricted.

The land should be valued on the assumption that the land can only be used for a small two-bedroom cottage of the same size and design and within the same building envelope as the existing building and no other improvements may be made on the land.



An analysis of the market evidence should include sales of smaller parcels where the land area only allows construction of a small two-bedroom home.

Further adjustments will be required to take into account the building's design obsolescence and for the added amenity provided by the extra land area.

## Valuation – example 2

Adjusting the land value to allow for a heritage restriction:

### Example

The heritage item is a four-storey brick commercial office building, built circa 1900. The building has pillars throughout the office floor area, narrow windows and large staircases. The land is a 1,000m<sup>2</sup> parcel zoned for commercial office buildings.

The existing improvements are constructed on the whole site with a gross building area of 4,000m<sup>2</sup>.

Having regard to the nature of the existing improvements, it is reasonable to determine that the whole parcel is heritage restricted.

The current LEP provides a Floor Space Ratio (FSR) of 4:1.

The highest and best use of the land if vacant is for a commercial office development with a gross building area of 4,000m<sup>2</sup>.

The existing development is consistent with the allowable FSR, however, the existing building is obsolete in design. The building has pillars throughout, narrow windows and wide stairwells. A modern building would have open plan office space, large windows to capture light and a narrow fire escape rather than large staircases.

The valuer must determine what the market would pay for a site with a new commercial office building that has a gross building area of 4,000m<sup>2</sup> but has a reduced capacity and amenity due to design obsolescence.

Firstly, using the direct comparison method the land is valued under section 6A of the Act. The land is considered to be vacant after notionally removing all improvements except land improvements. The market evidence should include a broad range of properties including improved properties and vacant land.

Using new buildings without the heritage restriction, a rate per net lettable area (NLA) is established. This rate is then compared to the rate applicable for comparable buildings with design obsolescence features that are similar to the subject property.

Many older buildings are renovated to a high standard allowing the valuer to assume the rental being analysed would be the same or similar to what would be achieved if the subject building was new.

#### Calculation

6A land value (using direct comparison) =	\$10m
Rental rate of new building =	\$100/m <sup>2</sup>
Rental rate of heritage building in new condition =	\$80/m <sup>2</sup>
The heritage restricted land value	$80/100 \times \$10 \text{ million} = \$8 \text{ million}$

Note: the use of NLA takes into account the design features such as the stairs and pillars that reduce the useable area. This is because the NLA only includes the lettable floor area. Other features of obsolescence such as the narrow windows reduce the amenity.

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## Related documents and legislation

- [Valuation of Land Act 1916](#) – Section 6A, Section 14G
- [Heritage Act 1977](#) – Section 123 - 125